

APPEAL NO. 010665

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 8, 2001. The hearing officer determined that appellant (claimant) did not sustain a compensable injury and that he did not have disability. Regarding maximum medical improvement (MMI) and impairment rating (IR), the hearing officer determined that, "[e]ven if claimant had sustained a compensable injury on _____, he reached [MMI] as a result of such [claimed] injury on July 9, 2000," with an IR of zero percent.¹ Claimant appeals these determinations on sufficiency grounds. He also complains of the admission of hearsay evidence. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision.

DECISION

We affirm.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination's are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Regarding claimant's assertion that the hearing officer allowed hearsay testimony at the hearing, we note that claimant did not object to the testimony at the hearing. To preserve any possible error, claimant was required to object and put the hearing officer on notice of his contention that the testimony should not be permitted. Given the nature of the testimony, the hearing officer cannot be faulted for admitting this testimony in the absence of an objection from claimant. We perceive no reversible error.

¹ The issues of MMI and IR are, of course, moot.

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge